

Register ____, ____ 2005 COMMERCE, COMMUNITY, AND EC. DEV.

3 AAC is amended by adding a new chapter to read:

Chapter 149. Regional Seafood Development Associations.

Section

- 10. Qualification criteria
- 20. Application development period
- 30. Application period
- 40. Application review
- 50. Recommendation to commissioner
- 60. Commissioner's final determination
- 70. State financial assistance
- 80. Prohibitions on use of state financial assistance
- 950. Definitions

3 AAC 149.010. Qualification criteria. (a) To qualify as a regional seafood development association, an organization must demonstrate that it meets the qualification criteria set out in AS 44.33.065(a)(1) - (4).

(b) To demonstrate that the organization is established for the purposes set out in AS 44.33.065(a)(1), the organization must submit, as part of its application submitted under 3 AAC 149.030(b), a business plan describing in detail

- (1) the organization's overall mission and purpose;
- (2) information about the qualifications of individuals serving in management

positions; that information must include

(A) the membership of the board of directors;

(B) a description of the experience of each individual serving in a management position; and

(C) an organization chart;

(3) economic development goals and strategies that show how the organization will meet the purposes set out in AS 44.33.065(a)(1);

(4) estimated seafood development taxes to be levied under AS 43.76.350 - 43.76.399 within each seafood development region to be represented by the organization; and

(5) estimated expenses, including administrative expenses.

(c) To demonstrate that it can provide representation on the board of directors as required by AS 44.33.065(a)(2), and as part of its application submitted under 3 AAC 149.030(b),

(1) the organization must list the number of seats on the board of directors;

(2) the organization must describe in detail

(A) the process by which members of the board of directors are to be elected; and

(B) how the election process for the board of directors will provide representation on the board of directors for each fishery

(i) subject to a seafood development tax levied under AS 43.76.350 - 43.76.399; and

(ii) in each seafood development region for which the organization

Register ____, ____ 2005 COMMERCE, COMMUNITY, AND EC. DEV.

seeks designation as a qualified regional seafood development association; and

(3) if the organization proposes to allocate seats on the board of directors according to the portion paid by each represented fishery of the total seafood development taxes estimated to be levied under AS 43.76.350 - 43.76.399, the organization must demonstrate that the allocation accurately corresponds to the portion paid by each represented fishery of the total seafood development taxes.

(d) To demonstrate that it has met the membership criteria in AS 44.33.065(a)(3), the organization must describe, in its application submitted under 3 AAC 149.030(b), how the organization will provide notice sufficient to reach persons identified in AS 44.33.065(a)(3) in each seafood development region for which the organization seeks designation as a qualified regional seafood development association.

(e) To demonstrate that it is organized as a nonprofit corporation as required in AS 44.33.065(a)(4), the organization must provide, as part of its application submitted under 3 AAC 149.030(b), a copy of its

(1) certificate of incorporation;

(2) articles of incorporation;

(3) bylaws;

(4) administrative policies and procedures that address board of directors structure, procurement activities, financial accountability, and election process;

(5) federal tax identification number; and

(6) determination by the United States Internal Revenue Service that the organization is exempt under 26 U.S.C. 501(c) from paying federal income tax; if the

Register ____, ____ 2005 COMMERCE, COMMUNITY, AND EC. DEV.

organization has not obtained tax-exempt status, but can demonstrate that the organization has met all other requirements under this section and has applied for tax-exempt status, the department will waive the requirement of this paragraph; however, an organization that receives a waiver is subject to the withholding requirement of 3 AAC 149.070(b). (Eff. __/__/__, Register ____)

Authority: AS 44.33.065

3 AAC 149.020. Application development period. (a) At least 20 days before the application period begins under 3 AAC 149.030(a), the department will announce an application development period for each seafood development region established in AS 44.33.065(b). The department will

(1) publish the announcement in each seafood development region, in at least one newspaper of general circulation in that region; and

(2) send the announcement to each commercial fishing permit holder on record with the Commercial Fisheries Entry Commission for each fishery in that seafood development region.

(b) After the department announces the application development period, an organization may submit written notice of its intention to apply for designation as a qualified regional seafood development association and describe its

(1) proposed mission statement;

(2) proposed management structure;

(3) proposed economic development goals and strategies;

Register ____, ____ 2005 COMMERCE, COMMUNITY, AND EC. DEV.

(4) plan to involve all eligible commercial fishing permit holders from fisheries in each seafood development region for which the association seeks designation as a qualified regional seafood development association;

(5) mechanisms to administer state financial assistance under AS 44.33.065(d) fairly; and

(6) attempts to gain support from commercial fishing permit holders from fisheries in each seafood development region for which the organization seeks designation as a qualified regional seafood development association.

(c) The department will conduct an in-person or telephonic meeting with each organization to discuss the organization's proposal.

(d) If the department receives more than one response from a seafood development region, the department will encourage and assist the responding organizations to work together to develop an application that addresses the interests of all the responding organizations.

(e) The department will prepare a summary report after each meeting that the department has under this section with an organization. The department will make the summary report available for public inspection. (Eff. __/__/__, Register ____)

Authority: AS 44.33.065

3 AAC 149.030. Application period. (a) The application period for designation as a qualified regional seafood development association in each seafood development region established in AS 44.33.065(b) begins on {*effective date of regulations*}.

(b) To submit an application, the applicant must complete the department's application

Register ____, ____ 2005 COMMERCE, COMMUNITY, AND EC. DEV.

form, and on that form must

- (1) designate a contact person;
- (2) identify each seafood development region for which the applicant seeks designation;
- (3) identify each fishery for which the applicant intends to hold elections under AS 43.76.350 - 43.76.399; and
- (4) provide the information required in 3 AAC 149.010 to demonstrate that the qualification criteria set out in AS 44.33.065(a)(1) - (4) have been met. (Eff. ____/____/____, Register ____)

Authority: AS 44.33.065

3 AAC 149.040. Application review. (a) The department will review for recommendation to the commissioner the first complete application received after the application period has begun for each seafood development region. Incomplete applications will not be considered.

(b) The department will notify the applicant by certified mail of the department's review. Within seven days after receiving a completed application, the department will review it and make a recommendation under 3 AAC 149.050. (Eff. ____/____/____, Register ____)

Authority: AS 44.33.065

3 AAC 149.050. Recommendation to commissioner. (a) The department will issue and provide to the commissioner a written recommendation to accept or reject the applicant as a

Register ____, ____ 2005 COMMERCE, COMMUNITY, AND EC. DEV.

qualified regional seafood development association. The department will base its recommendation upon whether the applicant has met the qualification criteria in AS 44.33.065(a)(1) - (4) and 3 AAC 149.010. In the recommendation, the department will set out which of the qualification criteria the applicant has or has not met and upon what information the department relied in reaching the recommendation.

(b) The department will provide the applicant's designated contact person with a copy of the written recommendation by certified mail.

(c) If the applicant does not agree with the department's recommendation, the applicant may submit to the commissioner, within 10 days after receiving the recommendation, a written objection to the recommendation. The commissioner will not review a written objection postmarked after that deadline. (Eff. __/__/__, Register ____)

Authority: AS 44.33.065

3 AAC 149.060. Commissioner's final determination. (a) Within 15 days after receiving the department's written recommendation, the commissioner will issue a final decision to accept or reject the applicant as a qualified regional seafood development association. The commissioner's determination whether the applicant has met the qualification criteria set out in AS 44.33.065(a)(1) - (4) and 3 AAC 149.010 will be based upon the

- (1) department's written recommendation;
- (2) applicant's timely written objection, if any, to the department's written recommendation; and
- (3) information submitted by the applicant through the application process.

Register ____, ____ 2005 COMMERCE, COMMUNITY, AND EC. DEV.

(b) The commissioner's decision is final for purposes of judicial review.

(c) Once the commissioner makes the determination, and if the determination rejects the applicant as a qualified regional seafood development association, the department will begin review of the next complete application for designation. (Eff. __/__/__, Register ____)

Authority: AS 44.33.065

3 AAC 149.070. State financial assistance. (a) An annual financial report required under AS 44.33.065(e) for obtaining state financial assistance must be compiled by an independent certified public accountant and must be prepared in accordance with generally accepted accounting principles. The report must include

(1) a consolidated statement of financial position, a statement of activities, and a cash flow statement; those items must include notes to the financial statements;

(2) a report on the extent to which the qualified regional seafood development association achieved the economic development goals proposed under 3 AAC 149.010(b)(3); and

(3) each letter, if any, from the independent certified public accountant to management or the board of directors recommending improvements to the regional seafood development association's accounting or financial practices.

(b) If a qualified regional seafood development association has applied for, but has not yet received, a determination by the United States Internal Revenue Service that the association is exempt under 26 U.S.C. 501(c) from paying federal income tax, the department will withhold from any state financial assistance provided under AS 44.33.065(d) an amount equal to 40 percent of the total seafood development taxes collected under AS 43.76.350 - 43.76.399

Register ____, ____ 2005 COMMERCE, COMMUNITY, AND EC. DEV.

within the seafood development regions represented by the association. The department will continue withholding under this subsection until the department receives a copy of the determination by the United States Internal Revenue Service that the association is exempt under 26 U.S.C. 501(c) from paying federal income tax. (Eff. ____/____/____, Register ____)

Authority: AS 44.33.065

3 AAC 149.080. Prohibitions on use of state financial assistance. State financial assistance under AS 44.33.065(d), and any passive investment income earned from that financial assistance, may not be used

(1) to the disadvantage of a seafood development region not represented by the qualified regional seafood development association;

(2) for price negotiations between fishers and seafood processors; or

(3) to pay expenses associated with lobbying a municipality or an agency of a municipality, or with lobbying the state or an agency of the state; for purposes of this paragraph,

(A) "lobby a municipality or an agency of a municipality" means to engage in an activity for the purpose of influencing municipal legislative or administrative action if the activity is substantially the same as activity that would have required registration under AS 24.45.121 if the activity was for the purpose of influencing state legislative or administrative action;

(B) "lobby the state or an agency of the state" means to engage in an activity for which registration is required under AS 24.45.121. (Eff. ____/____/____, Register ____)

Register ____, ____ 2005 COMMERCE, COMMUNITY, AND EC. DEV.

Authority: AS 44.33.065

3 AAC 149.950. Definitions. In this chapter, unless the context requires otherwise,

(1) "commissioner" means the commissioner of commerce, community, and economic development;

(2) "department" means the Department of Commerce, Community, and Economic Development;

(3) "fishery" has the meaning given in AS 16.43.990;

(4) "seafood development region" means a region established under AS 44.33.065(b). (Eff. __/__/__, Register ____)

Authority: AS 44.33.065